

**State Board of Education  
Operating Standards Committee**

Meeting Minutes  
April 14, 2014

**Committee Members Present:**

Ron Rudduck – Chair  
Darryl Mehaffie  
Mike Collins  
Stephanie Dodd  
Sarah Fowler  
Kathleen McGervey  
Debe Terhar

**ODE Staff Present:**

John Richard  
PR Casey  
Kevin Duff  
Sandra Hay  
Amber Schneider

**Board Members Present:**

Debbie Cain  
Mary Rose Oakar  
Anne Jacobs  
Joseph Farmer

**CALL TO ORDER & MINUTES**

Mr. Rudduck called the meeting to order and asked members to review two set of minutes before them. Mr. Collins moved to approve the March 11, 2014 minutes; Ms. Fowler seconded and with all members voting AYE, the minutes were approved as written. Ms. Dodd moved to approved the March 25, 2014; Ms. Terhar seconded. After discussion, one edit and one amendment were made. With six members voting AYE and Mr. Collins abstaining, the minutes were approved as amended.

**STAKEHOLDER FEEDBACK**

The Committee heard stakeholder feedback from Eric Price of Dayton, OH who spoke about the importance of the Baldrige work in developing Rule 3301-35-01 to -05 as they currently exist. Ms. Dodd noted that she was aware that other stakeholders would be speaking regarding Rule 5 during Public Participation in front of the Full Board. Ms. Hay shared an email from the Ohio Alliance for Arts Education who provided feedback on OAC 3301-35-05(A)(4). Mr. Collins requested that ODE create a summary of all stakeholder feedback to date.

**DISCUSSION OF OAC 3301-35-05 (RULE 5)**

OAC 3301-35-05(A)

Dr. Richard summarized the revisions to Rule 5. He noted that no language was added or revised. Ms. Dodd noted that the Committee agreed to remove certain language. Ms. Hay noted that the March 25 minutes reflect all of the changes that were agreed upon.

Ms. Terhar moved to amend OAC 3301-35-05(A) to read: *Credentialed and classified staff shall be recruited, employed, assigned, evaluated and provided professional development in accordance with federal and state law.* Mr. Mehaffie seconded. Chair Rudduck called for discussion. Dr. Richard reminded the Committee that last month, they asked legal counsel to review what regulations currently exist in law to prevent discrimination in school hiring practices. Mr. Casey, Chief Legal Counsel, noted that ORC 4412.02 prevents discrimination based on certain criteria by any employer. Language in federal law is similar. He stated that it was his opinion that employees would receive the same protection under law whether or not the list of protected classes was explicit in rule.

Ms. Dodd moved to amend Ms. Terhar's amendment so that OAC 3301-35-05(A) would read: *Credentialed and classified staff shall be recruited, employed, assigned, evaluated and provided professional development without discrimination on the basis of age, color, ancestry, national origin, race, gender, religion, disability, or veteran status.* Mr. Collins seconded. Mr. Casey asked for confirmation that Ms. Dodd simply intended to keep the language as it currently exists. She agreed and noted that she felt that the addition of this protected class was important in order to ensure that Ohio's students had access to the best teachers. Ms. Jacobs, Ms. Cain and Ms. Oakar expressed support for Ms. Dodd's amendment.

To simplify the vote on these amendments, Mr. Casey suggested that Ms. Dodd and Mr. Collins could withdraw their motion and second and the Committee could simply vote Ms. Terhar's motion.

Ms. Dodd withdrew her motion and Mr. Collins withdrew his second. Mr. Rudduck asked for a vote on Ms. Terhar's motion to amend OAC 3301-35-05(A) to read : *Credentialed and classified staff shall be recruited, employed, assigned, evaluated and provided professional development in accordance with federal and state law.* With five AYES (Terhar, Fowler, McGervey, Mehaffie and Rudduck) and two NAYs (Dodd and Collins), the motion carried.

Ms. Dodd moved to further amend OAC 3301-35-05(A) to include language that would prevent schools from discriminating in employment practices based on sexual orientation. Mr. Collins seconded. Ms. Cain and Ms. Jacobs spoke in support of the motion. Ms. McGervey stated that she did not believe that the Board has the statutory authority to make an amendment such as Ms. Dodd suggested. Mr. Farmer asked Mr. Casey if it was redundant to have the rule include federal and state law and a prohibition against the discrimination based on sexual orientation. Mr. Casey responded that sexual orientation is not a protected class under state or federal law. Ms. Terhar asked if the Board would have any authority to either add a protected class to the rule or to take action against a school that violated this rule if it included an additional protected class. Mr. Casey responded that while the Board could add a protected class to the rule, it was his opinion that an addition of a factor not included in federal or state law could be a liability for the Department because the Department would be the only place that a person could turn to for recourse and the Department did not have the capacity to investigate such cases. Additionally, it could also be a liability issue for the Department to get ahead of state and federal legislation. Ms. Dodd responded that she did not believe a lack of Department resources was sufficient reason not to make the rule. Ms. Terhar requested that the Chair call the question. The Chair asked the Committee to vote. With two AYES (Dodd, Collins) and five NAYs (Mehaffie, Fowler, Terhar, McGervey, Rudduck) the motion was defeated.

#### OAC 3301-35-05(A)(2)

Following up from the March meeting, Dr. Richard provided the definition of a *Full Time Equivalent Teacher* and *Regular Education Student* from ORC 3301.0714. The Committee would like to consider including these definitions in OAC 3301-35-01.

#### OAC 3301-35-05(A)(4)

Ms. Terhar moved to replace OAC 3301-32-05(A)(4), known as the "5 of 8 Rule" with the following language: *Educational service personnel are credentialed staff with the knowledge, skills, and expertise to support the educational, instructional, health, mental health, and college/career readiness needs of students.* Ms. Fowler seconded. Due to editing, OAC 3301-35-05(A)(4) would be numbered as OAC 3301-35-05(A)(3). This language was proposed by the Ohio Alliance for Arts Education. With six members voting AYE and Mr. Mehaffie abstaining, the motion carried.

#### **OAC 3301-35-06 INITIAL DISCUSSION**

Ms. Hay summarized Rule 6 which is related to educational programs and support services for students. Ms. Fowler asked about what "sufficient time" means as used in the rule. Ms. Hay stated that it meant that course work could be completed faster or slower depending on the needs each student. Blended Learning is a topic that appears in this rule; the Committee requested a presentation from ODE staff on blended learning at the next meeting. School safety also appears as a topic in this rule and ODE staff

suggested that could be made into a separate rule. Similarly they discussed how to present active shooter training in the rule but agreed to continue the discussion at a future meeting.

**ADJOURNMENT**

Ms. McGervey moved to adjourn, Ms. Dodd seconded. With all members voting AYE, the meeting adjourned.